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REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Status of Claims

Claims 24-27, 29-31 and 35-37 are pending in the application. Claims 24-27 and 29-31 have been objected to. Claims 24-27, 29-31 and 35-37 have been rejected.

Claims 24, 29 and 35 have been amended herein. Applicants respectfully assert that the amendments to the claims add no new matter.

New claims 38-44 have been added in order to further define what the Applicants consider to be the invention. Applicants respectfully assert that no new matter has been added.

Claim Objections

In the Office Action, the Examiner objected to claims 24-27 and 29-31 because of alleged informalities. Claims 24 and 29 have been amended in order to cure these informalities. Accordingly, Applicants request withdrawal of the objections.

CLAIM REJECTIONS

35 U.S.C. § 102 Rejections

In the Office Action, the Examiner rejected claims 24-27, 29-31 and 35-37 under 35 U.S.C. § 102(e), as being anticipated by Madar et al. (U.S. Patent Application Publication No. 2004/0092825). Applicants respectfully traverse this rejection in view of the remarks that follow.

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Madar et al. was published on May 13, 2004, which is after the earliest claimed priority date of Applicants' application, November 29, 2002, the filing date of U.S. Provisional Application No. 60/429,564. Madar et al. is available as a reference against Applicants' application under 35 U.S.C. § 102(e) because Madar et al. claim priority from U.S. Provisional Application No. 60/400,325, filed August 1, 2002, which is prior to November 29, 2002.

However, in accordance with 37 C.F.R. § 1.131 and Manual of Patent Examining Procedure § 715, Applicants may submit a declaration to antedate a reference that qualifies as prior art under 35 U.S.C. 102(e), where the reference has a prior art date under 35 U.S.C. 102(e) prior to Applicants' effective filing date and shows but does not claim the same patentable invention.

Accordingly, Applicants herewith submit a Declaration of Shlomo Lewcowicz Under 37 C.F.R. § 1.131 to show that the subject matter of pending claims 24-27, 29-31 and 35-37 was conceived of by the inventors hereof prior to August 1, 2002. Mr. Lewcowicz, one of the inventors of this application, states that he met with Rachel Bentov, Director of Intellectual Property at Given Imaging, at the facilities of Given Imaging in Yoqneam, Israel (a WTO country) on a date prior to August 1, 2002 to discuss the elements and steps of certain discoveries and inventions of which he conceived, including those as subsequently filed in this patent application. Mr. Lewcowicz also submits copies of two (2) pages from Ms. Bentov's notebook that reflect Ms. Bentov's contemporaneous notes of the relevant part of the conversations between Mr. Lewcowicz and Ms. Bentov on that day.

Applicants herewith also submit a Declaration of Rachel Bentov Under 37 C.F.R. § 1.132, wherein Ms. Bentov confirms that those two pages are the relevant pages from her notes of the conversation between her and Mr. Lewcowicz that is discussed in the Declaration of Shlomo Lewcowicz. Because those two pages are written mostly in the Hebrew language and partly in the English language, Ms. Bentov also provides a complete English translation of those two pages.

Applicants argue that the inventions claimed in the pending claims, namely independent claims 24 and 35 as amended herein, as well as dependent claims 25-27, 29-31, 36-38, 40 and 42-44, are shown in Ms. Bentov's contemporaneous notes of her conversation

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with Mr. Lewcowicz. Thus, the subject matter of the pending claims was conceived of by the inventors hereof prior to August 1, 2002.

Applicants also contend that that the inventors, the owner of this application and their attorneys were duly diligent from prior to August 1, 2002 to November 29, 2002, the filing date of U.S. Provisional Application No. 60/429,564, which is the constructive reduction to practice of this invention.

Thus, in view of the proofs provided in the attached Declaration of Shlomo Lewcowicz Under 37 C.F.R. § 1.131 and Declaration of Rachel Bentov Under 37 C.F.R. § 1.132, Applicants argue that Madar et al. is no longer available as a reference against the subject patent application under 35 U.S.C. 102(e), and Applicants respectfully request that this rejection be withdrawn.

Accordingly, Applicants respectfully assert that amended independent claims 24 and 35 are allowable. Claims 25-27, 29-31, 36-37 and 38-44 depend from, directly or indirectly, claims 24 and 35, and therefore include all the limitations of those claims. Therefore, Applicants respectfully assert that dependent claims 25-27, 29-31, 36-37 and 38-44 are likewise allowable. Accordingly, Applicants respectfully request that the Examiner withdraw the rejections to amended independent claims 24 and 35 and to claims 25-27, 29-31, 36-37 and 38-44 dependent thereon.

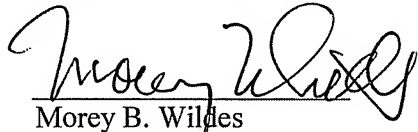
In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

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No fees are believed due in connection with this paper, except for the Petition for a Three-Month Extension of Time, which is being filed separately. However, if any such fees are due, please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Morey B. Wildes", written over a horizontal line.

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Dated: July 30, 2008

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